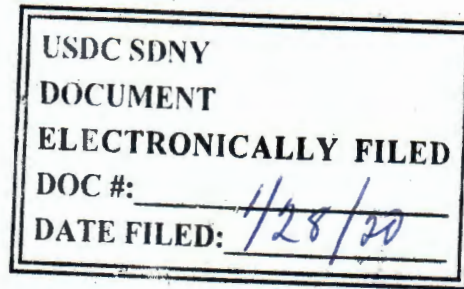


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January 27, 2020

The Honorable Victor Marrero
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street,
New York, NY 1007-1312

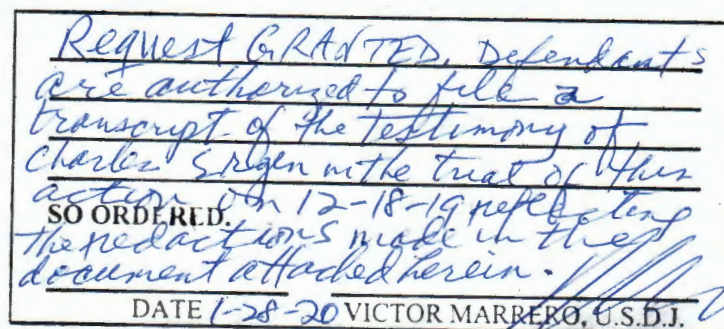
Re: Notice of Intent to Request Redactions, State of New York, et al. v. Deutsche Telekom AG, et al., No. 1:19-cv-05434-VM-RWL (S.D.N.Y.)

Dear Judge Marrero,

On behalf of all Defendants, we respectfully submit the attached transcript, which includes proposed redactions to the confidential portion of Charles Ergen's testimony, December 18, 2019. For the reasons stated on the record, these redactions are necessary to protect non-party DISH Network's confidential information regarding its financial model and certain strategic partnership discussions. See Dkt. 350 (December 15, 2019 letter from P. Michalopoulos); Tr. 1554-1560. Defendants have consulted with counsel for DISH and with Plaintiffs, and they concur with the proposed redactions.

Sincerely,

Richard G. Parker



JCITSTA1

Ergan - Direct

1 (In robing room)

2 THE COURT: Bear in mind that we have sharp time
3 constraints. I indicated that each side would have 15 minutes,
4 roughly, so let's see if you could stay within that time frame.
5 Possibly the most expeditious way of doing this would be for,
6 if possible, the witness to make a narrative of whatever it is
7 you want him to testify to rather than waiting for questions,
8 if that's possible, and then whenever you reach any of these
9 sensitive matters just flag it, and at that point, after we
10 have a record, the parties can go back and try to redact.

11 CHARLES ERGAN,

12 having been previously sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. PARKER:

15 Q. I put in front of the witness 7199. Sir, can you identify
16 this document?

17 We have two topics this morning, your Honor, one is a
18 business plan and the second is some strategic partnership that
19 we need to talk about.

20 Sir, can you identify this document, sir?

21 A. This is a preliminary model of DISH's 5G business plan.

22 Q. And have you personally been involved in preparing this?

23 A. I have.

24 Q. Who else is involved in preparing this?

25 A. Mr. Cullen, our development team and our financial team,

JCITSTA1

Ergan - Direct

1 and then other parts of our business, different functions, be
2 it our IT business or sales and marketing teams.

3 Q. I want to point out -- has this been presented to the board
4 of directors?

5 A. This has been.

6 Q. Are you periodically presenting business plan iterations to
7 the board?

8 A. We have. As we learn more information, as we have gone
9 through the RFP process and as we talk to vendors and talk to
10 partners, this model evolves. Its latest iteration is probably
11 about 30 days ago, and it's a little different than this, and
12 it will probably evolve a little more, but it's pretty close.

13 Q. You talk about the end of period subscribers. Could you
14 describe what that line item is? I'm on page 3, the very top
15 line item, sir.

16 A. Maybe I can take the judge's suggestion and kind of give
17 you a narrative.

18 Q. That's a lot better.

19 A. If we went to 3, it basically shows we could take the 9
20 million subscribers and grow the business. And in fact, in the
21 2020s we would grow the business to [REDACTED] subscribers, and
22 then goes up from there. That's the first thing.

23 The second thing that I think is important about the
24 model is you look at the ARPU and how much the customer pays to
25 us, and you see in the model that that comes in materially

JCITSTA1

Ergan - Direct

1 lower than where the incumbents are today. The incumbents
2 today are in the 42 to \$48 range, this actually over time drops
3 below [REDACTED] in terms of what the average customer pays in terms
4 of a process. It shows both post-paid and prepaid, so we meet
5 the Justice Department guidelines on the post-paid. Those
6 actually end up being some of our most profitable subscribers.

7 It takes into consideration -- I think some of the
8 assumptions are important because every model -- in every model
9 you have assumptions about what you think is going to happen,
10 so the underlying base you make a determination whether those
11 are credible or not. So it does assume that we'll have
12 marketing partnerships with people other than DISH, it does
13 assume that we don't have any constraints on the number of
14 people that we can put on the system, on the T-Mobile network,
15 it does assume that we're able to adopt eSIM technology and
16 utilize that in a competitive way, it does assume that we are
17 able to bundle other things besides just the wireless business.
18 Those are the main ones.

19 It does assume in this model if the merger closed
20 January 1st, I think that's probably -- since that maybe
21 perhaps is not realistic today, everything in this model would
22 shift. If the merger closed March 1st, it would shift two
23 months. So when you look at the annual, you have to kind of
24 mentally add two months to this.

25 So that's the gist of the model. But basically the

JCITSTA1

Ergan - Direct

1 big picture shows we could be competitive and grow the business
2 and show we could be very profitable and does generate profits
3 and cash flow that continues to build our business.

4 Q. Two quick questions. On page 3, the top entry, that is
5 your projected subscriber growth from [REDACTED]?

6 A. That's [REDACTED].

7 Q. Excuse me, [REDACTED], these are all in millions.

8 A. So to put in perspective, the first year we expect to go
9 from 9 million -- first twelve months is what I should say, go
10 from 9 million to [REDACTED] subscribers, and then ultimately
11 by the end of 2025 we expect to get [REDACTED] subscribers. So
12 that's a little larger than Sprint, and that's just prepaid and
13 post-paid, so that isn't the wholesale customers.

14 Q. Then average ARPU, is that dollars per sub per month?

15 A. Yes, and that shows a little less -- it shows [REDACTED] on
16 average in 2020 and ends up being around [REDACTED] -- going down over
17 time to about [REDACTED]. And it's important realize it's not just
18 the ARPU, not only is the customer going to get a lower price,
19 but they will get more features and more capacity. As you
20 improve the network there's more features that the customer
21 will get basically at no extra charge.

22 THE COURT: How does your ARPU compare to Sprint's
23 current?

24 THE WITNESS: Let me compare to Boost, their prepaid
25 business. Their ARPU today is a little over [REDACTED] the last

JCITSTA1

Ergan - Direct

1 number I saw in November, this is [REDACTED]
2 than what they charge today. Not only will it be less price,
3 but obviously they will have a better network, so they're
4 getting actually a much better network for less money, and the
5 [REDACTED] is less. On the other side of the scale, Verizon today is
6 probably in the \$40 range. They have the best network, so they
7 could charge a premium for it.

8 Q. Moving on to another topic, have you considered strategic
9 partnerships in connection with the new enterprise you're
10 embarking on here?

11 A. We have, and I probably should -- first of all, for a big
12 picture perspective, we don't have every skill set we need.
13 When we built satellites, we needed partners to help us out.
14 We needed someone to build the satellite, we needed someone to
15 launch the satellite. In this case in the 5G world, this is
16 kind of a new technology, there are pieces that we'll need help
17 with, and in that case we need partners.

18 The only sensitive part is going to be -- I will put
19 that in two buckets. The first bucket is non-sensitive. Let's
20 take a tower company where we might -- you need towers, you
21 would do an arm's length transaction, I would pay you, the
22 tower company, a lease and you would be happy to do business
23 with me because it's in your financial best interests. I need
24 that partnership, loosely "partnership." That's not sensitive
25 information, so let's put that aside, and that could be in open

JCITSTA1

Ergan - Direct

1 court if somebody wants to ask about it.

2 But the partnerships that are sensitive are those
3 people that not only are happy to do business with you because
4 it might in your financial interest, but strategic. In some
5 cases they might want to provide capital. So the most

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

JCITSTA1

Ergan - Direct

1 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED]

4 [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED]

7 [REDACTED] [REDACTED]

8 [REDACTED] [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED] [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED] [REDACTED]

14 [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED] [REDACTED]

20 [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED] [REDACTED]

24 [REDACTED]

25 [REDACTED]

JCITSTA1

Ergan - Direct

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED].

18 Now let me back up a little bit. There's different
19 buckets of people interested in this. Let's talk about the
20 cable industry. We talked yesterday about the barrier to entry
21 being the amount of spectrum that you have, and obviously DISH
22 is well positioned with spectrum with the potential optionality
23 of 850 megahertz in the future. The cable industry today, the
24 three big players are in the business within MVNO deals, but
25 particularly in Comcast and Charter's case, it's just not a

JCITSTA1

Ergan - Direct

1 very good deal. It's a mirror image. They sell on the Verizon
2 network, they don't have their own core or their own phone
3 numbers. And the deal is not -- doesn't help them be
4 particularly competitive, let's put it that way.

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 And I then would fast forward to what I call the web
19 scale companies. Because we're building the first network
20 that's 100 percent in the cloud, something we call cloud
21 native, and that's where all your processing goes, that's where
22 your brain is, that's where the processing goes on. [REDACTED]

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

JCITSTA1

Ergan - Direct

1 [REDACTED] [REDACTED]
2 [REDACTED]
3 [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED] [REDACTED] [REDACTED]
6 [REDACTED] [REDACTED]
7 [REDACTED] [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED] [REDACTED]
11 [REDACTED] [REDACTED]
12 [REDACTED] [REDACTED]
13 [REDACTED]
14 [REDACTED] [REDACTED]
15 [REDACTED]
16 [REDACTED] [REDACTED] [REDACTED]
17 [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED] [REDACTED]
22 [REDACTED]
23 [REDACTED] [REDACTED]
24 [REDACTED]
25 [REDACTED] [REDACTED]

JCITSTA1

Ergan - Direct

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED]
6 [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] [REDACTED] [REDACTED]
10 [REDACTED] [REDACTED]
11 [REDACTED] [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED] [REDACTED] [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED] [REDACTED]
23 [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED] [REDACTED]

JCITSTA1

Ergan - Direct

1 [REDACTED] [REDACTED]
2 The next big bucket I call the enterprise strategic
3 partners. So there are three companies in the United States
4 today that every Fortune 500 company deals with. Usually one
5 or two of these companies you will deal with, but everybody
6 deals with at least one of those companies, and [REDACTED]

7 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED] You will hear buzz words,
11 "containers," "kubernetes", it just means it's a bunch of
12 software. And all of their customers use these kubernetes in
13 their business, and they all would like to have access to a
14 private network where they have a network where there's a
15 wireless network connectivity they could use themselves.

16 Let me give you real world example. If you're an
17 automotive plant and making cars in North Carolina, you're
18 going to have some robotics in that plant, and those robotics
19 need -- today those robots can't move, there's a big cable on
20 every robot. Modern technology, what you start to see in China
21 is those robots move, because they're connected wirelessly, but
22 you need a network to do that. You need a lot of capacity. So
23 they want a private network to be able to share in their
24 factory production they can have wireless robotics, they can
25 have safety for the workers so they know where the workers are,

JCITSTA1

Ergan - Direct

1 they want to know the temperature, if there's gas, if there's
2 gases, if there's something that -- they want security, so they
3 want their communications and their phones to be secure, so
4 they wouldn't want me bringing -- like in this courthouse, they
5 wouldn't want me bringing my phone in, they would want a phone
6 that was secure, Jio coded to their factory. Then the
7 automobile, they want to have connectivity to the automobile
8 that they produce, and the insurance company wants to know how
9 fast you drive, did you drive sober, does your engine need
10 repair, is your oil okay. So they want to be able to connect
11 to the car once it leaves the factory and goes to the dealer,
12 and then they want to know when it's sold and how it performs
13 so they could make the product better. They also want to
14 upgrade the phone. Tesla does this today. But they want to
15 upgrade the phone through software, so a very simple example is
16 they want to download Christmas music at Christmas to your car,
17 and when Christmas is over and it's Valentine's Day, they want
18 to send you something about Valentine's Day. So these are
19 things that the car companies want to do.

20 THE COURT: The police want to know where certain
21 people are.

22 THE WITNESS: They definitely want to do that.

23 Q. [REDACTED]
24 [REDACTED]
25 [REDACTED]

JCITSTA1

Ergan - Direct

1 [REDACTED] [REDACTED] [REDACTED]
2 [REDACTED] [REDACTED]
3 [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED] [REDACTED] [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED] [REDACTED] [REDACTED]
12 [REDACTED] [REDACTED] [REDACTED]
13 But with the announcement of this transaction,
14 everyone understands, A, a lot of what we were talking about a
15 year or two ago, and they see the path now to a modern
16 architecture and they see something good for their company.
17 And there's two motivations, really two motivations with
18 business CEOs, greed, very powerful, and fear, but fear is just
19 as powerful. And so the fear of being left out of where this
20 industry is going is -- their boards have told them they need a
21 5G strategy, and they don't want to be left out. And they're
22 not as interested -- it's not that they can couldn't buy from
23 the incumbents or do a deal, and they will do deals with them,
24 I think more on the arm's length side, but they don't want the
25 old architecture, they want to go where the business is going.

JCITSTA1

Ergan - Direct

1 They don't want to start with where it was, at least this
2 generation of leaders. So that's -- I don't know if I covered
3 that well enough.

4 THE COURT: Mr. Parker, do you have any other
5 questions?

6 MR. PARKER: I don't have any other questions.

7 THE COURT: Let me turn to Ms. Blizzard.

8 MS. BLIZZARD: Thank you. A couple of preliminary
9 matters. So we know what was covered, and there's another DISH
10 witness, we'll try to cover everything that could potentially
11 be covered now, and I may ask my colleague, Ms. Boyce, who will
12 be handling the second witness, Mr. Cullen, to also ask a few
13 questions, with your permission here?

14 THE COURT: Okay.

15 MS. BLIZZARD: Do you want to ask another clarifying
16 question?

17 MS. BOYCE: Yes, I'm planning to speak to Mr. Cullen
18 briefly about this business model as well and hoping to put it
19 on the confidential screen but then ask some questions in the
20 abstract about the length of time that it might take to get to
21 the levels of growth that this chart displays, because
22 obviously under the law the timeliness of the entry of the
23 fourth competitor is relevant. And I wanted to make sure that
24 your Honor would not understand questions in the abstract
25 about, for example, whether it would take more than two to

JCITSTA1

Ergan - Cross

1 three years to achieve this level of growth would be highly
2 confidential so long as I stay away of the specifics of the
3 particular plan.

4 MR. MICHALOPOULOS: So long as the it's in the
5 abstract, that's acceptable to us.

6 THE COURT: Thank you.

7 CROSS-EXAMINATION

8 BY MS. BLIZZARD:

9 Q. Turning back to your business plan just for a few minutes
10 so the line under revenues that says dollars per sub per month,
11 page 3 of 24, the line that says dollars per sub per month,
12 your counsel referred to that as the ARPU line, I wanted to
13 clarify you were using ARPU, that's the line I would be
14 pointing, to the first number is [REDACTED]

15 A. Yes, dollars per sub per month I would say is the ARPU
16 line.

17 Q. If the merger doesn't close later, all these numbers would
18 shift over say two or three months, and what really this
19 indicates is the first calendar year of operations, or 2020
20 would be the first calendar year?

21 A. Yes.

22 Q. Okay. You made a comment you said that the Boost
23 subscribers were going to be on a better network when they came
24 over when they were divested to DISH. Do you recall that?

25 A. I said a general statement, yes.

JCITSTA1

Ergan - Cross

1 Q. But are you aware that Sprint today has a roaming agreement
2 with T-Mobile? Are you aware of that?

3 A. Yes.

4 Q. So the Boost customers today are riding on the Sprint
5 network and have T-Mobile roaming available today, right?
6 That's true?

7 A. I don't know the whole -- I don't know the details of that
8 roaming agreement today, but I can tell you what our plans are,
9 which is to any new customer, day one, we will provision only
10 on the T-Mobile network. So when I say Boost subscribers will
11 be on the T network, I'm referring to any new customer will be
12 on the T-Mobile network. The current 9 million customers that
13 we have today, some of those customers have handsets today that
14 are compatible with T-Mobile that we can transition over in a
15 fairly short period of time to T-Mobile. Let's call that a

16 [REDACTED]
17 [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED]

22 And then the rest, they will have to stay in the
23 Sprint network. Those particular phones are not capable of
24 roaming on the T-Mobile network because they don't have the
25 right frequency, the right bands in them. So two things will

JCITSTA1

Ergan - Cross

1 happen with those customers, they may churn or we will upgrade
2 them to handsets in the future that will work on the T-Mobile
3 network and we'll provision them on the T-Mobile network.

4 Q. But my point was today those Boost the customers, the
5 [REDACTED] that have compatible handsets, they're already
6 roaming on to T-Mobile network. So for them it's not going to
7 be a better network on day one, it will be the same network on
8 day one, right?

9 A. No, that's not my understanding. It actually will be.
10 Even the Sprint network, they work -- they go first to the
11 Sprint network and they only roam on T-Mobile when the Sprint
12 network is not available. So this is my opinion and things
13 that I have read about, so I'm not going to -- the T-Mobile
14 network, as an example, because they don't have a low band
15 spectrum other than CDMA Voice, it doesn't penetrate the walls.
16 As a gross generalization, my Sprint phone wouldn't work as
17 well as my T-Mobile phone would work. So customers, when they
18 go in a building, this doesn't work as well as T-Mobile because
19 they have low band spectrum which will go through the walls.
20 So we are likely to transition those customers over to the
21 T-Mobile network even though we get the Sprint -- we can stay
22 in the Sprint network, we have the ability to do that, and we
23 get a -- the Sprint network, we have a [REDACTED] discount to
24 stay on that network, but our initial evaluation is
25 notwithstanding the [REDACTED] discount, it's still better to

JCITSTA1

Ergan - Cross

1 transition people to the T-Mobile network.

2 Q. In the interests of time, a lot of which is also probably
3 not confidential, I will move on to the strategic partnerships.

4 Are any of these agreements with all these
5 partnerships signed?

6 A. No.

7 Q. You said yesterday in open court that you were discussing
8 the highly confident letters and discussing how to move those
9 to commitments would actually cost money, do you remember that?

10 A. Yes.

11 Q. And you said: If I knew that this trial -- if I knew the
12 decision on this trial, and it was a favorable decision to the
13 merger, we certainly would be willing to do that, to spend
14 money, but I wouldn't go risk that kind of money because I
15 think there's real issues with this case.

16 Do you recall that?

17 A. Yes.

18 Q. So are all these strategic partnerships in the same bucket,
19 that you won't be signing any of them until after there's a
20 decision on this case?

21 A. That's correct, because they don't -- they want to know
22 what -- they want to know who to partner with, and DISH is a
23 materially different company with this transaction and they are
24 a materially different company without this transaction.

25 Q. And you were discussing enterprise strategic partnerships,

JCITSTA1

Ergan - Cross

1 and the types of access to private networks that they would
2 want to have that DISH might be willing to provide. Do you
3 recall that?

4 A. Yes.

5 Q. To clarify, that doesn't involve retail mobile wireless,
6 right, those are not sales to consumers by definition?

7 A. They are but it's indirect. So if you went to General
8 Electric and you did a private network for General Electric, we
9 would do that under the condition that their General Electric
10 employees, of which they have hundreds of thousands, would get
11 access to our mobile phones. And the reason that General
12 Electric would want to do that is because they have a secure
13 connection, they have a General Electric app and they have a
14 secure connection to their customers, so they could talk to
15 themselves in a different way. So I'm not going to say you're
16 not going to get every GE employee in that case, but you have
17 an indirect benefit there, and it's a really low cost marketing
18 strategy to get customers. Wal-Mart has 1.3 million employees.
19 They deal with Wal-Mart. We will get a fair number of those
20 employees on that network.

21 Q. But those contracts are controlled, administered through
22 the enterprise. In other words, there's not going to be a
23 store on the street next to the Verizon store where a consumer
24 walks in to get a DISH General Motors or Wal-Mart strategic
25 partnership phone, these are going to be administered through

JCITSTA1

Ergan - Cross

1 the enterprise, right?

2 A. In many cases, like in General Electric, they would
3 probably walk into their office and get the phone there instead
4 of going to take store. Actually it would probably a better
5 experience. And at Wal-Mart, there they have stores, it might
6 be a different situation, but they wouldn't be walking into a
7 Boost store on the corner to get it I think is your point, and
8 think I think that's probably true.

9 Q. A couple more questions. These are materials that your
10 counsel has marked as highly confidential from your deposition,
11 and I want to confirm a couple of quick statements with you.

12 So I asked you at your deposition regarding documents
13 that discussed with [REDACTED] you could get to [REDACTED]
14 pops, meaning population coverage, and I asked you: Do you
15 believe -- do you still believe that with [REDACTED] you
16 could get to [REDACTED], and you said yes.

17 A. Yes.

18 Q. Is that still correct?

19 A. Yes.

20 MR. PARKER: Your Honor, could we have counsel
21 identify the page and line number?

22 MS. BLIZZARD: Absolutely, page 32 of the deposition,
23 starting with line 2, a couple of questions maybe running to
24 line 21.

25 MR. PARKER: Thank you.

JCITSTA1

Ergan - Cross

1 BY MS. BLIZZARD:

2 Q. Do you recall at your deposition we discussed the status of
3 your negotiations with T-Mobile about the 600 megahertz
4 spectrum leases?

5 A. Yes.

6 MS. BLIZZARD: And for counsel's record, it starts
7 page 210, line 24, and runs to page 212, line 24.

8 Q. And at that time let me explain a little bit, because the
9 judge may not be aware of these, so the proposed final
10 judgments requires DISH and T-Mobile to discuss leases of
11 DISH's spectrum back to T-Mobile in the 600 megahertz range.

12 Correct?

13 A. That's correct.

14 Q. And you have begun those discussions with T-Mobile?

15 A. We have had discussions with T-Mobile.

16 Q. And when we spoke at the deposition, you said that
17 initially their bid and our off were far apart. Do you recall
18 that.

19 A. I did, and they still are.

20 Q. That was my question. And you said that their bid was more
21 in the range of [REDACTED], where we had in the first year [REDACTED]
22 [REDACTED]. Do you recall that?

23 A. I do.

24 Q. Have the discussions progressed at all since that time?

25 A. No. In fact we have had no further discussions since the

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1 deposition.

2 Q. And you also mentioned that there was -- part of a dispute
3 was not only the money, but the amount of time for the lease,

4 [REDACTED]

5 [REDACTED] is that still correct?

6 A. That's correct. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. And then the third issue related to the 600 megahertz
11 negotiations was a difference in geographic markets, that

12 [REDACTED]

13 [REDACTED]

14 A. Your analysis of that is correct, and it's still an issue.

15 Q. You mentioned at your deposition that you had gotten an
16 update from Sprint on the specific Boost financials. Do you
17 recall that?

18 A. Yes.

19 Q. And you had stated at the time that the performance had
20 been less than expected. Do you recall that?

21 A. Yes.

22 Q. Is that still your understanding?

23 A. Yes. I have the updated to November, so November was above
24 expectation, but since the budget that that they gave us until
25 today is still -- it's very slight, but it's below projections.

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Q. Were those projections for subscribers or revenue or some other measure?

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A.

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MS. BLIZZARD: I think that's all the questions I

11

have. Do you have any other?

12

MS. BOYCE: Yeah, just a few if I may.

13

CROSS-EXAMINATION

14

BY MS. BOYCE:

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Q. Mr. Ergan, these various strategic partnership potential discussions that we have discussed, those have all happened in the last couple of months, correct?

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A. No, we have been talking to some of those companies, not all, but some for several years as we started planning our build out in the first two phases; one was the IoT network, and the second phase was always the 5G. Having said that, I think you're somewhat correct in the sense that when this deal was announced that that was a catalyst for our 5G network to be build quicker, and therefore a catalyst for them to engage in more serious and timely discussions.

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1 Q. Sure. So when we deposed you and Mr. Cullen, you didn't
2 bring up these more serious partnerships because they had not
3 yet happened, correct?

4 A. That's not true. I disagree with that, I guess I would
5 say. It may be true, I don't think it's true.

6 Q. So let's say, for example, the partnership with [REDACTED] that
7 you mentioned, with respect to partnering on your particular
8 network, those discussions have progressed over the last couple
9 of months, correct?

10 A. They continue to progress. I got an email last night about
11 furthering discussions.

12 Q. And neither you nor Mr. Cullen gave us specific details
13 about those discussions at your deposition because they had not
14 happened yet, correct?

15 A. That's not correct. I don't know about Mr. Cullen's
16 deposition, I have no knowledge of that, but my recollection in
17 my deposition I was asked by Ms. Blizzard if we had talked to
18 [REDACTED] I believe I answered yes, and I believe there was
19 something to the effect of how interested are they, and I said
20 they're very interested, and then I don't believe I was asked a
21 question on the details of the discussions.

22 Q. Sure. So I --

23 A. That's my recollection. I could be wrong.

24 Q. I'm making a very small point, so I will get to that point.
25 Many of these conversations happened after the point at which

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1 we would have received emails to look into them, correct?

2 A. Yes, I think there are -- the discussions are ongoing,
3 particularly as we go through design reviews, and they are
4 part -- for example, I will to your point, [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED]

7 [REDACTED]

8 Q. One of the conversations that we do know about and have
9 been able to depose folks about [REDACTED]. You're aware of
10 that, correct?

11 A. I'm not.

12 Q. Well, I will represent to you now that we have spoken to
13 [REDACTED] and were able to depose [REDACTED] and my understanding
14 from that deposition is that [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A. I don't know that.

18 Q. You haven't been privy to any of the conversations?

19 A. Not on that subject.

20 Q. And with respect to [REDACTED]

21 A. I have not.

22 Q. But your understanding --

23 A. With [REDACTED] I have not.

24 Q. But your understanding would be that you cannot in fact

25 [REDACTED] [REDACTED]

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1 A. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 [REDACTED], we're already 20
21 minutes over. Anything else?

22 MS. BOYCE: No, for efficiency's sake.

23 MR. PARKER: Nothing, your Honor.

24 THE COURT: The transcript should be marked, the
25 entire proceeding, "confidential," and I will ask the parties

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1 subsequently to meet and confer and determine whether there may
2 be some redacted version of the transcript that could be made
3 public.

4 (Continued on next page)

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